

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

12020 SOUTH JACKSON ROAD,  
MICA, WASHINGTON,  
TOGETHER WITH ALL  
APPURTENANCES, FIXTURES,  
ATTACHMENTS, AND  
IMPROVEMENTS THERETO  
AND THEREUPON,

and

865 PENINSULA LOOP, PRIEST  
RIVER, IDAHO, TOGETHER  
WITH ALL APPURTENANCES,  
FIXTURES, ATTACHMENTS,  
AND IMPROVEMENTS  
THERETO AND THEREUPON

Defendants.

CV-05-389-JLQ

Final Order of Forfeiture

Plaintiff, United States of America, alleged in a Verified Complaint for Forfeiture In Rem, that the Defendant real properties are subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6) and (a)(7) and 18 U.S.C. § 981(a)(1)(C).

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1355. Venue is proper pursuant to 28 U.S.C. § 1395.

1. 12020 South Jackson Road, Mica, Washington

On June 16, 2006, the Court entered an Order Allowing Interlocutory Sale of the Defendant real property located at 12020 South Jackson Road, in Mica, Washington.

1 The defendant property consists of net sales proceeds in the amount of  
2 \$73,240.73 from the interlocutory sale of real property located at 12020 South  
3 Jackson Road, in Mica, Washington, as evidenced by the Amended Notice of  
4 Proceeds filed herein on March 5, 2007.

5 On December 27, 2005, David Nielsen and Alice Nielsen were personally  
6 served with copies of the Verified Complaint for Forfeiture In Rem, Notice of  
7 Complaint for Forfeiture, and Lis Pendens in the above-entitled matter, as evidenced  
8 by the United States Marshals Service's form USM-285 filed with the Court on  
9 February 3, 2006. On February 28, 2006, Claimants, David Nielsen and Alice Nielsen  
10 filed a joint verified claim to the defendant property and answer to the complaint.

11 On December 27, 2005, the United States Marshals Service posted copies of the  
12 Verified Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture, and Lis  
13 Pendens in the above-entitled matter on the Defendant real property located at 12020  
14 South Jackson Road, Mica, Washington, as evidenced by the USM-285 form filed  
15 with the Court on January 10, 2006.

16 The Notice of Complaint was published on December 22 and 29, 2005, and  
17 January 5, 2006, in the Cheney Free Press, a newspaper of general circulation in  
18 Spokane County, Washington, as evidenced by the USM-285 form and attached  
19 Affidavit of Publication filed with the Court on January 10, 2006. Rule C of the  
20 Supplemental Rules for Certain Admiralty and Maritime Claims, Fed. R. Civ. P., and  
21 18 U.S.C. § 983(a)(4)(A), require that claimants file a claim within thirty (30) days  
22 after final date of publication of the Notice of Complaint for Forfeiture, or within  
23 thirty (30) days after service of the complaint, whichever occurs first. At the latest  
24 this 30-day period expired on February 8, 2006.

25 On January 6, 2006, Washington Trust Bank filed a verified claim to the  
26 Defendant real property located at 12020 South Jackson Road, Mica, Washington. On  
27 February 27, 2006, the United States and Claimant, Washington Trust Bank entered  
28 an Expedited Settlement Agreement of its interest in the real property. Claimant,

1 Washington Trust Bank's interest was paid from the court-ordered interlocutory sale  
2 proceeds.

3 On February 22, 2006, Wells Fargo Bank filed a verified claim to the Defendant  
4 real property located at 12020 South Jackson Road, Mica, Washington. On May 19,  
5 2006, the United States and Claimant, Wells Fargo Bank, entered into a Settlement  
6 Agreement of its interest in the real property. Claimant, Wells Fargo's interest was  
7 paid from the court-ordered interlocutory sale proceeds.

8 2. 865 Peninsula Loop, Priest River, Idaho

9 The defendant property consists of real property located at 865 Peninsula Loop,  
10 Priest River, Idaho, and is legally described as follows:

11 The North Half of the Northeast Quarter of the Southeast  
12 Quarter of Section 30, Township 57 North, Range 4 West,  
Boise Meridian, Bonner County, Idaho.

13 Together with a 30 foot Easement for Ingress, Egress and  
14 Utilities, over and across existing road which accesses  
property from Peninsula Loop Road.

15 Also Together with a non-exclusive, non-commercial  
16 Easement for Ingress, Egress and Utilities, recorded as  
Instrument No. 574942, January 2, 2001.

17 Also Together with a non-exclusive Easement for Ingress,  
18 Egress and Utilities, recorded as Instrument No. 577802,  
February 26, 2001.

19 Parcel No. RP 57N04W307201 A

20 Together with all appurtenances, fixtures, attachments, and  
21 improvements thereto and thereupon.

22 Real property records and a title report show that the property is owned by  
23 David Nielsen and Alice Nielsen, husband and wife.

24 On December 27, 2005, David Nielsen and Alice Nielsen were personally  
25 served with copies of the Verified Complaint for Forfeiture In Rem, Notice of  
26 Complaint for Forfeiture, and Lis Pendens in the above-entitled matter, as evidenced  
27 by the United States Marshals Service's forms USM-285 filed with the Court on  
28 February 3, 2006. On February 28, 2006, Claimants, David Nielsen and Alice Nielsen

1 filed a verified claim to the defendant property. No other claims have been filed. To  
2 date, neither David Nielsen nor Alice Nielsen have filed an answer to the complaint.  
3

4 On February 2, 2006, the United States Marshals Service posted copies of the  
5 Verified Complaint for Forfeiture In Rem, Notice of Complaint for Forfeiture, and Lis  
6 Pendens in the above-entitled matter on the property located at 865 Peninsula Loop,  
7 Priest River, Idaho, as evidenced by the USM-285 form filed with the Court on  
8 February 8, 2006.

9 The Notice of Complaint was published on January 3, 10, and 17, 2006, in the  
10 Bonner County Daily Bee, a newspaper of general circulation in Bonner County,  
11 Idaho, as evidenced by the USM-285 form and attached Affidavit of Publication filed  
12 with the Court on February 3, 2006. Rule C of the Supplemental Rules for Certain  
13 Admiralty and Maritime Claims, Fed. R. Civ. P., and 18 U.S.C. § 983(a)(4)(A),  
14 require that claimants file a claim within thirty (30) days after final date of publication  
15 of the Notice of Complaint for Forfeiture, or within thirty (30) days after service of  
16 the complaint, whichever occurs first. At the latest this 30-day period expired on  
17 February 16, 2006.

18 On March 12, 2007, the United States and Claimants, David Nielsen and Alice  
19 Nielsen filed with the Court a Stipulation for Order of Forfeiture and Settlement  
20 Agreement with regards to their claims to the defendant property.

21 In said stipulation, Claimants, David Nielsen and Alice Nielsen agreed to  
22 withdraw their claims to the proceeds from the interlocutory sale of the Defendant real  
23 property located at 12020 South Jackson Road, in Mica, Washington, and to the entry  
24 of a final order of forfeiture of the proceeds without further notice or presentment of  
25 said order. Claimants also agreed to the entry of a final order of forfeiture of the  
26 Defendant real property located at 865 Peninsula Loop, Priest River, Idaho, without  
27 further notice or presentment of said order.  
28

1 Further, the United States and Claimants, David Nielsen and Alice Nielsen  
2 agreed in said stipulation that upon the sale of the Defendant real property located at  
3 865 Peninsula Loop, Priest River, Idaho, by the United States Marshals Service, and  
4 payment of any outstanding taxes and liens, and the expenses incurred by the United  
5 States Marshals Service in connection with its custody and sale of the property, the  
6 United States will pay 25% of the **net sale proceeds** to Claimants, David Nielsen and  
7 Alice Nielsen to settle their claims to the Defendant real property.

8 It appearing to the Court that the United States and Claimants, David Nielsen  
9 and Alice Nielsen have reached a settlement of their interests in the \$73,240.73 sales  
10 proceeds and in the Defendant real property located at 865 Peninsula Loop, in Priest  
11 River, Idaho, pursuant to the Stipulation for Order of Forfeiture and Settlement  
12 Agreement;

13 It also appearing to the Court that the claims of Washington Trust Bank and  
14 Wells Fargo Bank to the Defendant real property located at 12020 South Jackson  
15 Road, in Mica, Washington, have been resolved through the payment of their interests  
16 from the court-ordered interlocutory sale proceeds; and,

17 It further appearing to the Court that no other claims have been made to the  
18 Defendant property;

19 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the net  
20 sale proceeds in the amount of \$73,240.73, from the interlocutory sale of the  
21 Defendant real property located at 12020 South Jackson Road, in Mica, Washington,  
22 are hereby forfeited to the United States of America and no right, title or interest shall  
23 exist in any other person.

24 IT IS FURTHER ORDERED that the Defendant real property located at 865  
25 Peninsula Loop Road, Priest River, Idaho, is hereby forfeited to the United States of  
26 America, and no right, title, or interest shall exist in any other person.  
27  
28

1 IT IS FURTHER ORDERED that the United States Marshals Service shall  
2 physically seize and take custody of the Defendant real property, located at 865  
3 Peninsula Loop, Priest River, Idaho, evicting any occupants or tenants therein.

4 IT IS FURTHER ORDERED that the forfeited real property shall be disposed  
5 of in accordance with law by the United States Marshals Service.

6 IT IS FURTHER ORDERED that upon sale of the forfeited real property, and  
7 payment of any outstanding taxes and liens, and the expenses incurred by the United  
8 States Marshals Service in connection with its custody and sale of the property, the  
9 United States Marshals Service shall pay 25% of the **net sale proceeds** to David  
10 Nielsen and Alice Nielsen.

11 DATED this 12th day of March, 2007.

12 s/ Justin L. Quackenbush

13 Justin L. Quackenbush  
14 Senior United States District Judge

15 Presented by:

16 James A. McDevitt  
17 United States Attorney

18 s/Jared C. Kimball

19 Jared C. Kimball  
20 Assistant United States Attorney